

Comments of the Radio Technical Commission for Maritime Services (RTCM) relating to CAN-SPAM Act Rulemaking, Project No. R411008

The Radio Technical Commission for Maritime Services (RTCM) respectfully submits these comments in response to the Advance Notice of Proposed Rulemaking concerning **CAN-SPAM Act Rulemaking, Project No. R411008**, published in the Federal Register on March 11, 2004 (69 FR 11776).

The RTCM is a non-profit organization whose objectives include studying and preparing reports on maritime telecommunications practices, needs and technologies with a view toward improving the efficiency and capabilities of maritime telecommunications services, suggesting ways to keep rules and regulations to the minimum essential for effective maritime telecommunications and making recommendations on important issues involving maritime telecommunications.

RTCM is deluged every day with unwanted commercial electronic mail (much of it offensive), and virus-laden E-mail attachments. Even with Spam filters and virus protection software, clearing the E-mail system of this detritus requires a significant amount of wasted time every day. We support the intent of the CAN-SPAM Act, and can only hope that it will be effective in some measure.

As a membership organization, RTCM uses E-mail to correspond with its members on a regular basis. Some of this correspondence alerts members to publications which RTCM offers for sale, and meetings which charge a registration fee. Therefore the primary purpose of these messages could be considered to be “commercial electronic mail messages” under the CAN-SPAM Act of 2003, P.L. 108-187 (“the Act”). One of the reasons organizations join RTCM is to have ready access to this information. It is important that this E-mail correspondence with members be excluded from the coverage of the Act. We believe it is the intention of the Act to include such communications with members under the definition of a “transactional or relationship message” as defined in Sec. 3(17)(A)(v), since recipients are entitled to and expect to receive this information as a result of their membership transaction.

Comment: RTCM supports the intent of present definition of “transactional or relationship messages” as it appears at Sec. 3(17)(A) of the Act, and as stated by the FTC under the third and fifth bullets of paragraph III.A at 69 FR 11777.

- **RTCM urges the FTC not to adopt any revisions to the definition of “transactional or relationship message” which would inadvertently restrict organizations from corresponding with their members by E-mail, even if the primary purpose of the message could be construed as being primarily a commercial electronic mail message.**
- **Furthermore, RTCM recommends that the regulations include a clarification of the definition of “transactional or relationship message” as authorized under Sec. 3(17)(B) of the Act to specifically include all E-mail correspondence between organizations with their members.**

- **If the FTC decides that such a clarification in the regulations is not necessary, RTCM urges the FTC to clearly state in the preamble of the Notice of Proposed Rulemaking or the Final Rule, that it is not the intention of the Act or the FTC to restrict correspondence between organizations and their members.**